IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4476 OF 2005

Shahaji Shamrao Jadhav ..Petitioner.

Vs.

The State of Maharashtra & Ors. ..Respondents.

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Mr.S.P.Kadam with Mr.R.V.Bansode for the Petitioner.

Mr.V.P.Malvankar, AGP for Respondent Nos.1 and 2.

Mr.R.G.Ketkar for Respondent No.3.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

5th October, 2005.

P.C. :

1. The Petitioner has been appointed from 1994 in terms of the particulars as set out in Exh.1 to the affidavit of Mr. Vishwanath V. Bhosle, Assistant Registrar, (Affiliation Section) of the Shivaji University, Kolhapur. In paragraph 2 it is set out that the Petitioner was appointed through local selection committee and that the appointment was approved by the Third Respondent university.

In other words, that appointment will be co-terminous with the order of appointment. In terms of the university statute where the regular vacancy is available that has to be filled in by a committee appointed in terms of the statute of the University for the regular vacancies. In this case, it is admittedly not so done.

2. The Petitioner in the present Petition has sought a relief that Resolution dated 18th October, 2001 is illegal. The said Resolution came up for consideration before a Learned Bench of this Court at Aurangabad in **Vishwaprakash s/o Laxman Sirsath v. State of Maharashtra** -2003(2) Mh.L.J.176 where the validity of the said Government Resolution was upheld as set out in the said judgment. The other relief sought is that the communication dated 14th March 2005 is illegal. That communication provides for the manner in which in the event there is a temporary vacancy, the appointment has to be made through a local selection committee. We fail to understand as to how the Petitioner can be aggrieved by that communication as it is merely in furtherance of the statute of the University. In the light of that, we find no merit in this Petition.

3. We however, make it clear that in the event there is a temporary vacancy available and the post has to be filled in through the local selection committee, the local selection committee will consider the Petitioner's working in the post for a long period and further if the post is thereafter advertised and has to be filled in by regular selection, then the Respondent University to waive the age requirement for the Petitioner. With the above observations, the Petition stands disposed of.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)